IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 6955 OF 2006

1(a) Nandini Manbahadur & Ors..... Petitioners.

Versus

The Madhavnagar Co-op. Housing Society Limited. ... ... Respondent.

Mr. G.N.Pandit for the Petitioners.
None for the Respondent.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

Heard Mr. G. N. Pandit, learned Counsel for the petitioners.

2. L. E. Suit No. 301 of 1984 which was filed for seeking eviction of the defendant decreed by the learned Judge, Small Causes Court at Mumbai vide order dated 7th September, 1999 and the defendant was directed to handover vacant and peaceful possession of the suit premises to the plaintiff. Aggrieved by the said judgment and order, the defendant filed Appeal No. 94 of 2000 which also came to be dismissed by the learned Division Bench of the Small Causes Court at

Mumbai vide its judgment and order dated 15th June, 2006.

3. In this writ petition the judgment and order passed by the lower appellate court confirming the judgment and order passed by the learned Judge, Small Causes Court at Mumbai, under the Bombay Rents Hotels & Lodging House Rates (Control) Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ petition be taken into consideration for condonation of delay, if any.

5. The interim order granted earlier will continue to

operate for a period of two weeks more from today.

6. Annexures to the petition memo be returned, if applied for.

7. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)